IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 16864 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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JAGDISHBHAI SOMNATH DAVE
Versus
THE STATE OF GUJARAT AND OTHERS

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Appearance :
MR RC JANI for the Petitioner
Mr Neeraj Soni, Assistant Government Pleader for the respondents

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CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 05/07/2007

ORAL JUDGMENT:

Rule. Mr Neeraj Soni, learned Assistant Government Pleader waives service of Rule for the respondents. At the request of the learned counsel for the parties, the matter is taken up for hearing hearing today.

The sole grievance of the petitioner is that the recovery sought to be effected by the respondents of Rs.46,740.40 from the petitioner is illegal since the petitioner had submitted the bill in accordance with the requirements specified in the provisions of Newspaper (Price and Page) Act, 1956.

The record of the petition shows that the petitioner was served with a show-cause notice dated 30th May 2006 calling upon the petitioner to explain why all aforesaid amount should not be recovered since the petitioner had published an advertisement by using more space and not in accordance with the specification given to him. The explanation was required to be submitted within 15 days from the date of the receipt of the said notice. In response to the same, the petitioner submitted the reply on 9.6.2006 wherein the petitioner has explained how the bill was prepared and submitted. It also appears from the record that by communication addressed to the petitioner dated 26th June 2007 the respondent has not accepted the explanation and has repeated the demand of Rs.46,742.40.

Mr RC Jani, learned advocate for the petitioner has drawn my attention to the said communication and has submitted that it does not at all reflect for what reason the explanation submitted by the petitioner has not been accepted. A perusal of the said document clearly shows that there is no substance in the submission of Mr Jani. When detailed explanation was submitted by the petitioner in response to the show-cause notice issued by the respondents it was incumbent upon the respondents to consider it properly and decide it by giving adequate reasons which should have been reflected in the said communication. That has not been done. In view of the same, it clearly appears that the decision dated 26th June 2007 is without application of mind and on that

ground alone it requires to be quashed and set aside and it is hereby quashed and set aside. The said order is of respondent No.3. Hence, respondent No.3 is now directed to consider the explanation of the petitioner along with other material, if produced and assign adequate reasons for the decision that may be taken. He is also directed to grant personal hearing to the petitioner by giving him advance notice of at least one week of the date of hearing and thereafter take appropriate decision in accordance with the facts of the case. The decision that may be taken by him will be intimated to the petitioner within 10 days of the date of the decision. The entire exercise to be completed as early as possible and in any case not later than 30th September 2007. The petition is therefore allowed. Rule is made absolute.

(Akshay H Mehta, J.)

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